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Paper No. 4

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In re Application of
Toth
Application No. 09/483,145
Filed: January 13, 2000
Attorney Docket No.: ATOMIC-10

ON PETITION

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OFFICE OF PETITIONS

This is a decision on the petition filed March 20, 2000, requesting in effect that the "Notice of Incomplete Nonprovisional Application" be withdrawn, the petition fee refunded and the above-identified application be accorded a filing date of January 13, 2000.

The application was filed on January 13, 2000. However, on March 16, 2000, Initial Patent Examination Division mailed a "Notice" requiring the specification include at least one claim.

In response, pages 10-12 of the specification which includes at least one claim, and the present petition were filed on March 20, 2000. The petition contends that the application as filed included three (3) pages of claims in the specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the Office of "12 pages of patent application, 6 sheets of informal drawings, 2 pages of declaration, 1 statement claiming small entity status and a original and copy of the letter of transmittal" on January 13, 2000.

Applicant's postcard receipt is prima facie evidence that a total of 23 pages were submitted on January 13, 2000. However pages 10-12 of the specification which include at least one claim are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that pages 10-12 of the specification were received on January 13, 2000, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since original pages 10-12 of the specification cannot be located in the Office, the copies of pages 10-12 of the specification supplied on March 20, 2000, will be used for processing and examination purposes.

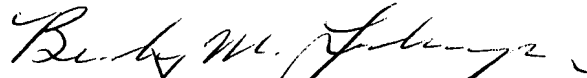
In the future, applicant is advised that his postcard receipt should identify the number of pages of specification, drawings and oath/declaration being filed. Failure to do so may result in the lost of a filing date.

The petition fee will be refunded.

The application is being forwarded to the Office of Finance, Refund Section to credit the \$130.00 petition fee to deposit account No. 06-0930.

The application will then be returned to Initial Patent Examination Division for further processing with a filing date of January 13, 2000, using pages 10-12 of the specification supplied on March 20, 2000.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.



Beverly M. Flanagan
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for Patent Examination Policy